



# RULE-MAKING ORDER

**CR-103E (July 2011)**  
(Implements RCW 34.05.350)

**Agency:** Consolidated Technology Services

**Emergency Rule Only**

**Effective date of rule:**

**Emergency Rules**

☒ Immediately upon filing.

☐ Later (specify) \_\_\_\_\_

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

☐ Yes

☒ No

If Yes, explain:

**Purpose:** To implement House Bill 1594 and 1595 to allow Consolidated Technology Services to charge fees for production of records and adopt the schedule of costs laid out in RCW 42.56.120, as amended.

**Citation of existing rules affected by this order:**

Repealed: WAC 143-06-090

Amended: WAC 143-06-160

Suspended:

**Statutory authority for adoption:** Amendments to RCW 42.56.

**Other authority :** RCW 43.105.057

## EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- ☐ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☒ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- ☐ That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012, or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

**Reasons for this finding:**

The bill allows agencies to charge for the production of records only after providing notice and public hearing. This emergency rule-making will allow CTS to use the 120 day effective period for a more thorough rule-making process.

**Date adopted:** July 21, 2017

**NAME (TYPE OR PRINT)**

Michael Callahan

**TITLE**

Contracts Attorney

CODE REVISER USE ONLY

CODE REVISER'S OFFICE  
STATE OF WASHINGTON  
FILED

JUL 20 2017

TIME 4:25 PM

WSR 17-16-021

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	<u>1</u>	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

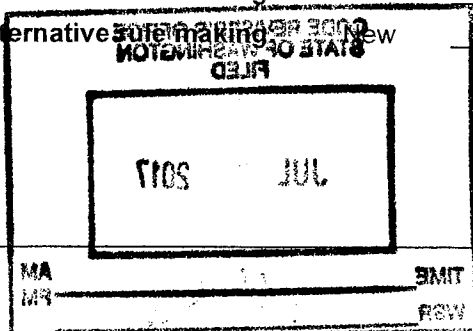
New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>1</u>	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternatives	New	_____	Amended	_____	Repealed	_____



NEW SECTION

**WAC 141-06-170 Calculations of action costs of producing copies of public records declared to be unduly burdensome- adoption of statutory fee schedule.**

(1) Consolidated Technology Services has deemed the actual calculation of costs to the agency for producing responsive records to a public records request is unduly burdensome, because:

- (i) The office does not have the resources to conduct a study to determine all its actual copying costs;
- (ii) staff resources are insufficient to perform a study and to calculate such actual costs;
- (iii) funds were not allocated for performing a study to calculate such actual costs and the agency lacks the necessary funds to perform a study and calculations;
- (iv) to conduct such a study would interfere with other essential agency functions; and
- (v) through the 2017 legislative process, the public and requesters have commented on and been informed of authorized fees and costs, including for electronic records, provided in RCW 42.56.120(2)(b) and (c), (3) and (4).

As such, Consolidated Technology Services shall charge for copies of records pursuant to the default fees in RCW 42.56.120(2)(b) and (c). Consolidated Technology Services will charge for customized services pursuant to 42.56.120(3). Under RCW 42.56.130, Consolidated Technology Services may charge other copy fees authorized by statutes outside of chapter 42.56 RCW. Consolidated Technology Services may enter into an alternative fee agreement with a requester under RCW 42.56.120(4).

(2) This fee schedule will be set forth on the Consolidated Technology Services Agency website and be updated with subsequent changes to RCW 42.56 or further Consolidated Technology rule-making.

#### New Section

##### **WAC 141-06-180 Fee Waivers**

Requesters are required to pay for copies in advance of receiving records. Fee waivers are an exception and are available for some small requests under the following conditions.

(a) It is within the discretion of the public records officer to waive copying fees when: (i) all of the records responsive to an entire request are paper copies only and are twenty-five or fewer pages; or (ii) all of the records responsive to an entire request are electronic and can be provided in a single email with attachments of a size totaling no more than the equivalent of 100 printed pages. If that email for any reason is not deliverable, records will be provided through another means of delivery, and the requester will be charged in accordance with this rule.

(b) Fee waivers are not applicable to records provided in installments.

#### New Section

##### **WAC 141-06-190- Requestor Fees and Deposits**

Consolidated Technology Services shall require an advance deposit of ten percent of the estimated fees when the copying fees for an installment or an entire request, or customized service charge, exceeds twenty-five dollars.

All required fees must be paid in advance of release of the copies or an installment of copies, or in advance of when a deposit is required. Consolidated Technology Services will notify the requester of when payment is due.

#### Repealer

The following section of the Washington Administrative Code is repealed:

WAC 143-06-090 Copying.

Amendatory Section (Amending the WSR 00-01-028, § 143-06-160, filed 12/7/99, effective 1/7/00; Order 0005, § 143-06-160, filed 4/17/75.)

#### **143-06-160 Records in possession of data processing service centers.**

No public records of users of department services shall be made available for public inspection or copying by the department without the express written authorization of the user.

Requests for inspection or copying of public records of the user, held or maintained by the center, shall be referred to the user for determination as to the right of public access to such records, pursuant to chapter 42.17 56 RCW. ~~Costs incurred by the department in providing access to or copies of public records of the user pursuant to chapter 42.17 RCW shall be paid by the user.~~

